

**SUPREME COURT MINUTES
THURSDAY, DECEMBER 23, 2004
SAN FRANCISCO, CALIFORNIA**

S112624

B143162 Second Appellate District,
Division Five

LEWIS JORGE CONSTRUCTION v. POMONA
UNIFIED SCHOOL DISTRICT
Opinion filed: Judgment affirmed as modified

The judgment of the Court of Appeal must be modified to read: "The judgment against Christopher Butler is reversed; the award of prejudgment interest is reversed; the award of attorney fees is reversed; and the award of \$3,148,197 for lost profits is reversed. In all other respects, the judgment is affirmed. The matter is remanded to the trial court for an award of prejudgment interest consistent with the opinion of the Court of Appeal." As modified that judgment is affirmed.

Majority Opinion by Kennard, J.,
--- joined by George, C.J., Baxter, Werdegarr,
Chin, Brown and Moreno, JJ.

S114054

B150963 Second Appellate District,
Division Three

ROBINSON HELICOPTER CO. v. DANA CORP.
Opinion filed: Judgment reversed

[B]ecause the Court of Appeal erred by applying the economic loss rule to Robinson, we reverse and remand for proceedings consistent with this opinion.

Majority Opinion by Brown, J.
--- joined by George, C.J., Kennard, Baxter,
Chin and Moreno, JJ.
Dissenting Opinion by Werdegarr, J.

S128608

A103342 First Appellate District,
Division Four

WHITWORTH v. CITY OF SONOMA
Time extended to grant or deny review

to January 28, 2005

S128904

A105511 First Appellate District,
Division Four

MORGOVSKY v. DOUBNOV CAPITAL INVEST.
Time extended to grant or deny review

to February 11, 2005.

S128935

G032276 Fourth Appellate District,
Division Three

QUEST INTERNATIONAL v. ICODE CORP.

Time extended to grant or deny review

to January 31, 2005.

S128936

A103416 First Appellate District,
Division One

SWEIS v. SEQUOYAH HTS. HOMEOWNERS ASSN.

Time extended to grant or deny review

to January 31, 2005.

S128955

B172631 Second Appellate District,
Division Seven

COLE v. CALIF INSURANCE GUARANTEE ASSN.

Time extended to grant or deny review

to January 27, 2005.

S128984

G033380 Fourth Appellate District,
Division Three

MELTZER v. MAXSYS TECHNOLOGIES CORP.

Time extended to grant or deny review

to January 28, 2005.

S129017

H027904 Sixth Appellate District,

THOMPSON v. WCAB (PACIFIC GROSERVICE)

Time extended to grant or deny review

to February 3, 2005

S129048

B171050 Second Appellate District,
Division One

SOUTHERN CALIFORNIA EDISON CO. v. P.U.C.
(CENTER FOR ENERGY EFFICIENCY, ETC.)

Time extended to grant or deny review

to February 3, 2005

S129049

B168913 Second Appellate District,
Division Five

HUGHES v. HUGHES BROTHERS

Time extended to grant or deny review

to February 3, 2005

S129079

B164479 Second Appellate District,
Division One

ESPINO v. WHITE CONSOLIDATED INDUSTRIES

Time extended to grant or deny review

to February 4, 2005

S129084

B169948 Second Appellate District,
Division Eight

MOOR v. GOURLEY

Time extended to grant or deny review

to February 4, 2005

S129107

A108138 First Appellate District,
Division Four

LEE v. NETWORK OF CITY BUSINESS JOURNALS

Time extended to grant or deny review

to February 4, 2005

S129171

B178888 Second Appellate District,
Division Seven

UTICA MUTUAL INS. CO. v. S.C. (GOULD PUMPS)

Time extended to grant or deny review

to February 10, 2005

S129174

D043149 Fourth Appellate District,
Division One

COURTNEY v. LISTER

Time extended to grant or deny review

to February 7, 2005.

S129240

C041897 Third Appellate District,

**COALITION FOR REASONABLE REGULATION OF
NATURALLY OCCURRING SUBSTANCES v.
CALIFORNIA AIR RESOURCES BOARD**

Time extended to grant or deny review

to February 8, 2005

S045078**PEOPLE v. CLARK (ROYAL)**

Extension of time granted

to February 22, 2005 to file appellant's reply brief. The court anticipates that after that date, only two further extensions totaling about 120 additional days will be granted. Counsel is ordered to inform his or her assisting attorney or entity, if any, and any assisting attorney or entity of any separate counsel of record, of this schedule, and to take all steps necessary to meet it.

S065467PEOPLE v. MENDOZA (RONALD)
Extension of time granted

to February 24, 2005 to file appellant's opening brief. After that date, only five further extensions totaling about 330 additional days will be granted. Extension is granted based upon Assistant State Public Defender Denise Kendall's representation that she anticipates filing that brief by 11/2005.

S123474A097749 First Appellate District,
Division FivePEOPLE v. MCGEE
Extension of time granted

to February 4, 2005 to file respondent's reply brief on the merits.

S124660RENO ON H.C.
Extension of time granted

to January 19, 2005 to file the informal response to the petition for writ of habeas corpus. After that date, only one further extension totaling about 20 additional days will be granted. Extension is granted based upon Deputy Attorney General Robert David Breton's representation that he anticipates filing that document by 2/7/2005.

S124998SAMUELS (MARY ELLEN) ON H.C.
Extension of time granted

to January 27, 2005 to file the reply to the informal response to the petition for writ of habeas corpus. After that date, only three further extensions totaling about 90 additional days will be granted. Extension is granted based upon counsel Joel Levine's representation that he anticipates filing that document by 4/2005.

S125572

D040040 Fourth Appellate District,
Division One

PEOPLE v. MURPHY

Extension of time granted

to January 18, 2005 to file appellant's answer
brief on the merits.

S026223

PEOPLE v. SMITH (GREGORY SCOTT)

Order filed

Appellant's motion for permission to file
supplemental letter brief is granted. Any answer
letter brief is to be served and filed on or before
December 30, 2004.

S119129

H024003 Sixth Appellate District

PEOPLE v. GUZMAN

Request for judicial notice granted

Respondent's request for judicial notice, filed
February 10, 2004, is granted.

S126945

B167799 Second Appellate District,
Division Three

H. (KRISTINE RENEE) v. R. (LISA ANN)

Order filed

The application of American Civil Liberties
Union Foundation of Southern California for
permission to file a single amicus curiae brief to
be considered in cases S126945, S125643 and
S125912 is hereby granted.

The application and brief must be filed within
thirty (30) days after the final brief on the merits
is filed in the last of the three cases.

S128318

ARMSTRONG ON DISCIPLINE

Recommended discipline imposed

It is ordered that **THOMAS IRWIN
ARMSTRONG, State Bar No. 160040**, be
suspended from the practice of law for six
months and until he pays \$718 in sanctions to
Mitchell Samuelson pursuant to the July 12,
2002, order in *Rubalcava v. Shernoff, et al*,
Orange County Superior Court case no.
02CC06376, and furnishes satisfactory proof
thereof to the State Bar Office of Probation, that

execution of the suspension be stayed, and that he be placed on probation for one year subject to the conditions of probation, including restitution, recommended by the Hearing Department of the State Bar Court in its decision filed on August 24, 2004. It is further ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

S128319

BURGOS ON DISCIPLINE
Recommended discipline imposed

It is ordered that **ROSEMARIE BURGOS, State Bar No. 130444**, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that she be placed on probation for three years subject to the conditions of probation, including 120 days actual suspension and until she makes restitution to Lawrence C. Avner and Leatrice Turrow (or the Client Security Fund, if appropriate) in the amount of \$22,500 plus 10% interest per annum from May 21, 1999, and furnishes satisfactory proof thereof to the Probation Unit of the State Bar, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on July 22, 2004, as modified by its order filed September 9, 2004. It is also ordered that respondent take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order or during the period of her actual suspension, whichever is longer. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that she comply with rule 955 of the California Rules of Court, and that she perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days,

respectively, after the effective date of this order.* If respondent is actually suspended for two years or more, she must remain actually suspended until she provides proof to the satisfaction of the State Bar Court of her rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct. Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and payable in accordance with Business & Professions Code section 6140.7.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S128322

ROBERTS ON DISCIPLINE

Recommended discipline imposed

It is ordered that **DAVID EUGENE ROBERTS, State Bar No. 51430**, be suspended from the practice of law for one year, that execution of the suspension be stayed, and that he be placed on probation for two years subject to the conditions of probation, including 120 days actual suspension, recommended by the Hearing Department of the State Bar Court in its order approving stipulation filed on August 18, 2004. It is also ordered that he take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order. (See *Segretti v. State Bar* (1976) 15 Cal.3d 878, 891, fn. 8.) It is further ordered that he comply with rule 955 of the California Rules of Court, and that he perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.* Costs are awarded to the State Bar in accordance with Business & Professions Code section 6086.10 and one-half of said costs must be added to and become part of the membership fees for the years 2005, and 2006.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

S129995

MORRIS ON RESIGNATION

Resignation accepted with disc. proceeding pending

The voluntary resignation of **Mary Josephine Morris, State Bar No. 137695**, as a member of the State Bar of California is accepted without prejudice to further proceedings in any disciplinary proceeding pending against respondent should she hereafter seek reinstatement. It is ordered that she comply with rule 955 of the California Rules of Court and that she perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the date this order is filed.* Costs are awarded to the State Bar.

*(See Bus. & Prof. Code, § 6126, subd. (c).)

C044644 Third Appellate District

PEOPLE v. FRANCISCO ERIC RUBION

Order filed

The time for granting review on the court's own motion is hereby extended to and including January 20, 2005. (Cal. Rules of Court, rule 28.2(c).)